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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,486	07/26/2001	Kouichi Hatano	32014-173263	6276

Venable  
P.O. Box 34385  
Washington, DC 20043-9998

7590 10/05/2004

EXAMINER
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WHIPKEY, JASON T

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 10/05/2004

4

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/912,486

Applicant(s)

HATANO, KOUICHI

Examiner

Jason T. Whipkey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4 and 7-10 is/are rejected.
- 7) ☒ Claim(s) 3,5 and 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 4, and 7-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Seal (U.S. Patent No. 6,333,988).

Regarding **claim 1**, Seal discloses:

An iris identifying apparatus for identifying a target person (Figure 1; column 1, lines 19-20) to be picked up by extracting an image of an iris from a picked-up image of an eye of said target person (column 4, lines 4-6), comprising:

a view window (120) into which said target person looks (column 5, lines 46-49);

an infrared illumination (150) having a peak wavelength in a range of infrared rays (column 6, lines 1-2);

an image pickup device (135) which has a sensitivity in said range of infrared rays and picks up said image of said eye of said target person through said view window (column 6, lines 25-26);

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a guide light (the LCD screen described in column 7, lines 12-16) which has a peak wavelength in a range of visible rays (a liquid crystal display inherently uses visible rays to *display* an image) and guides a line of sight of said target person through said view window; and

optical-axis aligning means (mirror 145, which routes IR rays to CCD 135; column 5, lines 65-67) for aligning said line of sight of said target person viewing said guide light with a photographing optical axis of said image pickup device.

Regarding **claim 4**, Seal discloses:

an optical axis of said infrared illumination crosses said photographing optical axis connecting said eye to said image pickup device, at an optimal image pickup distance (note the path B in Figure 1 of infrared rays from illumination source 150 to eye 110 to mirror 145 and finally to CCD 135).

Regarding **claim 7**, Seal discloses:

said optical-axis aligning means (145) is a hot mirror (column 6, lines 53-57) for passing visible rays of said guide light to allow said visible rays to enter said eye of said target person (beam A in Figure 1), and reflecting infrared rays of said infrared illumination reflected at said eye of said target person to allow said infrared rays to enter said image pickup device (beam B in Figure 1).

Regarding **claim 8**, Seal discloses:

said optical-axis aligning means (145) is a cold mirror (column 11, lines 27-34) for passing infrared rays of said infrared illumination reflected at said eye of said target person to allow said infrared rays to enter said image pickup device located on a line

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extending from said view window, and reflecting visible rays of said guide light to allow said visible rays to enter said eye of said target person.

Regarding **claim 9**, Seal discloses:

a mirror for reflecting visible rays of said guide light whereby said visible rays reflected at said mirror enter said eye of said target person via said optical-axis aligning means (column 7, lines 5-8).

Regarding **claim 10**, Seal discloses:

said iris identifying apparatus is a handheld type iris identifying apparatus into whose view window said target person looks while holding said iris identifying apparatus by a hand (Seal teaches that the device may be brought by the user to his own eye in column 2, lines 59-60).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seal in view of Hirasawa (U.S. Patent No. 6,091,450).

Claim 2 may be treated like claim 1. However, Seal is silent with regard to turning on the display when an eye is detected.

Hirasawa discloses an image pickup apparatus with an electronic viewfinder that detects the presence of a photographer's eye. The apparatus includes:

image-pickup notification means (system control circuit 104, shown in Figure 1) for turning on said guide light (backlight part 116; column 8, lines 21-36) and notifying said target person of said eye having entered an image pickup distance of said image pickup device (the user will inherently know that their eye is in appropriate proximity to the viewfinder when the display is visible).

As stated in column 1, lines 61-64, an advantage to turning on and off the viewfinder's display when a user is not present is that power consumption is reduced. For this reason, it would have been obvious at the time of invention to have Seal's device to turn off its display when an eye is not detected.

***Allowable Subject Matter***

5. Claims 3, 5, and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claim 3, no prior art could be located that teaches or fairly suggests the iris identifying apparatus recited in claim 2, wherein the guide light is flickered when a focus value on a scale of zero to 100 is below a predetermined threshold.

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Regarding claims 5 and 6, no prior art could be located that teaches or fairly suggests the iris identifying apparatus recited in claim 2, wherein a guide frame is located between the optical-axis aligning means and the guide light for guiding an image of a user's iris to a specific range within the image pickup field of view.

### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason T. Whipkey, whose telephone number is (703) 305-1819. The examiner can normally be reached Monday through Friday from 8:30 A.M. to 6:00 P.M. eastern daylight time, alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy R. Garber, can be reached on (703) 305-4929. The fax phone number for the organization where this application is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR


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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JTW

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September 26, 2004

  
WENDY R. GARBER  
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